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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,502	04/04/2001	John E. Parmeter	SD-6643	3035

7590 03/01/2004
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EXAMINER

RAEVIS, ROBERT R

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/826,502

Applicant(s)

PARMETER ET AL.

Examiner

Robert R. Raevis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-12 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4-4-01</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the bellows (of claim 4), rigid stops (of claim 5) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The disclosure is objected to because of the following informalities: "9" (p. 7, line 4) is incorrect as the base was previously labeled "9". Also, "house" (p. 7, line 19) should read --hose--. Finally, please correct the phrase "[WHAT IS SEALING MEMBER 20?]" (p. 11, line 12).

Appropriate correction is required.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claims 2,3 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 2, this claim is not consistent with the written specification. Specifically, the claim calls for a "flexible" (line 1) wall; while the written specification states that it is the sealing "member 20" (p. 6, line 12) that is "flexible" (p. 6, line 12). (Note that even the "flexible fellows" (p. 10 line 12) is related to the "sealing member 20" (line 11) and not the "wall".)

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As to claim 5, the stops are described as “contacting” the vehicle. Isn’t it the seal that contacts the vehicle? Where is there support in the written specification for “stops”?

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Danylewych-May et al in view of either Chinn et al or Fujita.

Danylewych teaches (col. 2, lines 39-64) aspiration air from the surface “of vehicles” (col. 2, line 57) to sample illegal materials. However, Danylewych does not provide particulars as to how the materials are aspirated.

As to claims 1,9, it would have been obvious to utilize Chinn’s sampler (with wall 199, seal 198) to draw samples from Danylewych’s surface because Chinn teaches that such a probe head will permit for transportation of particles to a “detector” (col. 1, line 40). In the alternative, it would have been obvious to utilize Fujita’s sampler (with wall 16, and seal 17) to draw samples from Danylewych’s surface because Fujita teaches that particles of interest may be directed to a detector by application of fluid flow pumps 11,15.

As to claims 2,6, note Fujita’s flexible ring 17.

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As to claim 7, note Fujita's plurality of inlets in Figure 1. In the alternative, note Chinn's multiple apertures 428,426 with the "opposite" (col. 5, line 19) teaching, suggestive of a plurality of inlets.

As to claim 8, the apertures are along the lower portion of the wall in both Chinn and Fujita.

As to claims 10,11, note Fujita's "discharge pump" 15.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Danylewych-May et al in view of either Chinn or Fujita as applied to claim 1 above, and further in view of Linker et al.

As to claim 12, it would have been obvious to employ a collector for detecting particles because Linker '601 teaches that detection of illegal materials will benefit from a preconcentrator to promote detection. This is suggestive of use of a concentrator in Chinn or Fujita to detect illegal materials.

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fletcher et al teach use of a collector with probe to collect illegal materials.

Corrigan et al teach (Fig. 7) double concentrators.

Atkinson et al test "air in the cabin" (col. 2, line 58) of a vehicle.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raemis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 6:30am to 4:00pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Raemis

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